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seeks to enforce the claim. *Held*, that she may recover. *Sullivan v. Shea*, 162 Pac. 925 (Cal.).

In most jurisdictions a creditor may extinguish his claim, without consideration, only by a release under seal, or in the case of a specialty by the surrender or destruction of the instrument itself. *Weber v. Couch*, 134 Mass. 26. Even under the somewhat anomalous New York rule a written, though gratuitous, receipt for payment is the only other alternative. *Gray v. Barton*, 55 N. Y. 68. Accordingly, the court in the principal case held that there had been no extinguishment. A declaration of trust of a *chose* in action in favor of a stranger is, however, binding, though oral and without consideration. *Ex parte Pye*, 18 Ves. Jr. 140. No reason suggests itself why the trust may not as readily be declared in favor of the obligor of the *chose*. The claim would then be virtually extinguished since the *cestui-obligor* would be protected in order to prevent circuity of action. But in the principal case the deceased's intention was to extinguish an obligation; not to create a trust. Formerly courts were inclined to treat an imperfect gift of a chattel as a perfect declaration of trust. *Morgan v. Malleson*, L. R. 10 Eq. 475. To do so imposes a duty upon the donor which he never intended to assume. Modern decisions have abandoned the doctrine. *Richards v. Delbridge*, L. R. 18 Eq. 11. However in the case of land an imperfect conveyance will be supported whenever possible as a bargain and sale, or covenant to stand seised. *Roe v. Tranmer*, 2 Wils. 75. For by virtue of the Statute of Uses the final result is precisely the one intended. A case like the principal case, where there is a gift of a *chose* to an obligor, occupies an intermediary position. Cf. *Flower v. Marten*, 2 Myl. & C. 459. By distorting the intended extinguishment into a trust no additional burden would in fact be imposed upon the deceased's estate. Yet the result would differ from, however closely it might resemble, that which deceased had attempted to effect. It is submitted, therefore, that the somewhat anomalous rule of *Ex parte Pye* need not, and consequently should not, be extended to upset a long-settled doctrine of the common law; and that the principal case is sound.

CONFLICT OF LAWS — JURISDICTION OF COURTS: PERSONAL JURISDICTION — SERVICE: SERVICE BY PUBLICATION AS A DENIAL OF DUE PROCESS. — The defendant was domiciled in Texas, but had left the state, not intending to return. A judgment on a note was rendered in Texas against him after service by publication. He seeks to have the judgment reversed for want of due process of law. *Held*, that the judgment is reversed. *McDonald v. Mabee*, U. S. Sup. Ct., Oct. Term, 1916, No. 135.

A state cannot in general extend the effect of its process outside its borders so as to acquire jurisdiction. *Ralston's Appeal*, 93 Pa. St. 133. Thus, service by publication does not give jurisdiction for a personal judgment against a non-resident. *Pennoyer v. Neff*, 95 U. S. 714; *Rand v. Hanson*, 154 Mass. 87, 28 N. E. 6. But service by publication will give a state court jurisdiction of a person domiciled within the state. *Becquet v. MacCarthy*, 2 B. & Ad. 951; *Henderson v. Staniford*, 105 Mass. 504. Due process of law, however, requires not merely jurisdiction of the defendant but reasonable notice to him. *Roller v. Holly*, 176 U. S. 398. Service by publication of a resident of a state who is not within the state has been considered sufficient. *Henderson v. Staniford*, *supra*; *Fernandez v. Casey*, 77 Tex. 452, 14 S. W. 149. And apparently in these cases it was not considered material whether or not the defendant intended to return to the state. But where there is no such intention to return, the chances are that publication will not actually notify the defendant. Consequently the rule of the principal case that such publication is not reasonable notice seems justifiable.

CORPORATIONS — CORPORATIONS *DE FACTO* — CHARTER AMENDMENT EFFECTED AFTER ATTEMPT AT UNAUTHORIZED CONSOLIDATION. — An insurance

company attempted to consolidate with a non-insurance company. Later the insurance company abandoned insurance by an amendment of its charter. The statute allows consolidation except between an insurance company and a company not engaged in insurance. ALABAMA CODE, § 3481. A stockholder of the sometime insurance company seeks to dissolve the consolidation. *Held*, that it be not dissolved. *Alabama Fidelity, etc. Co. v. Dubberly*, 73 So. 911 (Ala.).

A *de facto* corporation can be formed as well by the consolidation of two or more corporations as by original creation. See *George Lumber Co. v. Dougherty*, 214 Fed. 958; *Leavenworth v. Chicago, etc. Ry. Co.*, 134 U. S. 688. One of the requisites of a *de facto* consolidation is the legal possibility of a *de jure* one. *American Trust Co. v. Minnesota, etc. R. Co.*, 157 Ill. 641, 42 N. E. 153; *Kavanagh v. Omaha Life Ass'n*, 84 Fed. 295. But the fact that a company is prohibited from consolidating because it is an insurance company does not make its consolidation legally impossible. See *Continental Trust Co. v. Toledo, etc. R. Co.*, 82 Fed. 642, 650. Cf. *Blackburn v. State*, 3 Head (Tenn.) 690. Rather, the change of one of the consolidating corporations into an insurance company or, as was done in the principal case, the change of the insurance company into something else, was only a condition precedent to *de jure* consolidation, and does not prevent a *de facto* consolidation. Particularly is this true when the condition precedent was subsequently performed and the only defect was the inversion in time of the legal steps. Cf. *Toledo, etc. R. Co. v. Continental Trust Co.*, 95 Fed. 497, 506 *ff.* Therefore, if the other requisites for a *de facto* consolidation are present in the principal case, the court seems right in declaring that there is such a consolidation.

CORPORATIONS — DISTINCTION BETWEEN CORPORATION AND ITS MEMBERS — DISREGARDING THE CORPORATE FICTION — GARNISHMENT OF DEBT OWED CORPORATION IN ACTION AGAINST STOCKHOLDER. — The defendant formed a corporation in which he took forty-eight of the fifty shares. He was sole manager of its business and used its income for his own household expenses, rendering no accounts whatever. In garnishment proceedings against the defendant, the plaintiff sought to attach a debt owed to the corporation, on the ground that the corporation was merely a cloak to cover the incorporator's transactions. *Held*, that the attachment will be allowed. *McIlhenny v. Lampton*, 45 Wash. L. Rep. 22.

Courts are not inclined to read into incorporation statutes any requirement of good faith on the part of incorporators. See *Attorney-General v. American Tobacco Co.*, 55 N. J. Eq. 352, 369, 36 Atl. 971, 978; *Windsor Co. v. Carnegie Co.*, 204 Pa. St. 459, 464, 54 Atl. 329, 331. Cf. *Brundred v. Rice*, 49 Oh. St. 640, 32 N. E. 169. See 20 HARV. L. REV. 222. Hence any fraudulent motive on the part of the defendant in forming the corporation would seem not to prevent its valid formation. Nor could the defendant's conveyance of property to the corporation be considered a fraudulent conveyance, for exchange of an incorporator's assets for shares of stock is a sale for a consideration. See *Foster & Sons v. Commissioners of Inland Revenue*, [1894] 1 Q. B. 516. It may be suggested that the "corporate fiction" should be disregarded. But a corporation and its shareholders are distinct legal entities. *Parker v. Bethel Hotel Co.*, 96 Tenn. 252, 34 S. W. 209; *Gallagher v. Germania Brewing Co.*, 53 Minn. 214, 54 N. W. 1115; *Salomon v. Salomon & Co.*, [1897] A. C. 22; *Hall's Safe Co. v. Herring-Hall Marvin Safe Co.*, 146 Fed. 37. See 20 HARV. L. REV. 223; *supra*, 83. The property of the corporation cannot normally be attached to recover a debt against a shareholder. *Williamson v. Smoot*, 7 Martin (La.) 31. There is, however, a growing tendency to disregard the "fiction" of corporate entity, whenever in the opinion of the court greater justice can be secured thereby. *U. S. v. Milwaukee Refrigerator Transit Co.*, 142 Fed. 247; *Bank v. Trebein*, 59